IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 21 of 1995

Date of decision : August 01, 2007

Balbir Singh

... Petitioner

versus

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal.

Present: Ms. Priya Gupta, Advocate as Amicus Curiae
for the petitioner.

Mr. Anter Singh Brar, DAG, Punjab
for the respondent.

A.N. Jindal, J

Accused-petitioner Balbir Singh (hereinafter referred to as 'the petitioner') a truck driver was put to dock for driving his truck bearing No.CHW-793 rashly and negligently and striking the same in the car which resulted into the death of Achhru Ram and injuries to Sanjiv Kumar and Amrish Kumar. Consequently, he was convicted vide judgment dated 3.12.1993 by the learned Judicial Magistrate Ist Class, Sangrur and sentenced to undergo rigorous imprisonment for 9 months and to pay fine of Rs.300/- under Section 304-A IPC.

The appeal was also dismissed by the learned Additional Sessions Judge, Sangrur vide its judgment dated 8.12.1994.

The factual matrix of the case is that Amrish Kumar son of Ved Parkash, got his statement recorded that he was Lecturer in S.D. College, Barnala and was travelling with his brother Sanjiv Kumar in maruti car No.

PAS 8191 driven by Achhru Ram son of Bir Singh towards Chandigarh. When they reached near village Chohanke Kotha, the petitioner while driving truck No.CHW-793 rashly and negligently came from the opposite side and struck against their car, as a result of which Achhru Ram died and Sanjiv Kumar and Amrish Kumar suffered injuries. Resultantly, a case was registered against the petitioner.

Consequently, the petitioner was charged under Section 304-A IPC, to which he pleaded not guilty and claimed trial.

During trial, the prosecution examined Dr. Parbhat Kumar, Medical Officer (PW1), who conducted autopsy on the dead body of Achhru Ram and found 10 injuries on his person which were sufficient to cause death in the ordinary course of nature. The injuries were found to be the result of motor vehicular accident. Mithu Singh (PW2) proved the recovery of the truck and the documents which were taken into possession by the police from the spot. He also stated that maruti car along with its documents was also taken into possession. Amrish Kumar (PW5) is the eye witness of the occurrence. He has described the verbatim scene of the occurrence and his testimony stands corroborated by Sanjiv Kumar (PW6) injured-eye witness. Both of them are consistent with regard to time, place and the manner in which the occurrence took place. It has also been duly explained by the witnesses that name of the accused was wrongly mentioned in the FIR as the petitioner had misrepresented himself. However, the witnesses have duly identified the petitioner in the Court as the person driving the truck at the time of occurrence. The witnesses had the opportunity to see the petitioner and to talk to him as he stayed at the place of occurrence for sufficient time i.e. about 15 minutes, therefore, the case

cannot be said to be of doubtful identity. The evidence of the eye witnesses stand supported by the medical evidence.

To the contrary, the petitioner had nothing to say in defence and he has not set up any specific plea to prove his innocence.

Consequently, finding no legal infirmity in the impugned judgment of conviction, as recorded by both the Courts below, I do not deem it appropriate to interfere with the same.

As regards quantum of sentence, the petitioner while throwing the traffic norms to the winds took the life of a young boy, which could be averted by him if he had taken some precautions, therefore, to award lessor sentence then that has been awarded by the trial Court would be travesty of justice.

Consequently finding no such irregularity, illegality much less any legal infirmity in the impugned judgment, this revision petition being unmerited is hereby dismissed.

Ms. Priya Gupta, Advocate Amicus Curiae may claim remuneration from the State as per rules.

August 01, 2007 (A.N. Jindal)
deepak Judge

To be referred to the Reporter : Yes/No.